

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:21-CR-00064-RJC-DSC

USA

v.

COREY DUSEAN EDWARDS

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ORDER

**THIS MATTER** is before the Court upon motion of the parties for withdrawal of the government's Information pursuant to 21 U.S.C. § 851, (Doc. No. 2), and to alter the supervised release term for Count Two from six years to five. (Doc. No. 39).

The government agreed to withdraw its § 851 information, (Doc. No. 4: Plea Agreement at 1), but failed to do so at or before the sentencing hearing.

Accordingly, the Court will grant the withdrawal.

However, the parties have not stated any legal basis to alter the supervised release term for Count Two. Federal Rule of Criminal Procedure 35(a) allows a court to correct a sentence for arithmetical, technical, or other clear error within fourteen days of sentencing. "As used in this rule, 'sentencing' means the oral pronouncement of the sentence." Fed. R. Crim. P. 35(c). The rule is jurisdictional; therefore, "[i]f the district court does not rule on the motion within the relevant time period, the motion is 'effectively denied.'" United States v. Smith, 631 F. App'x 181, 182 (4th Cir. 2016) (citing United States v. Shank, 395 F.3d 466, 468 (4th Cir. 2005)). Here, the Court pronounced the defendant's sentence on March 10, 2022. (Doc. No. 36: Judgment at 1). The instant motion was not filed until March 28,

2022. (Doc. No. 39). Accordingly, the Court does not have jurisdiction to rule on the motion.

Even if the Court had jurisdiction to consider the merits of the motion, the parties have not shown clear error. The six-year term of supervised release imposed for Count Two does not exceed the statutory maximum under 21 U.S.C. § 841(b)(1)(C), even with the withdrawal of the § 851 information. United States v. Perez, 22 F.4th 430, 435-36 (4th Cir. 2022) (maximum term of supervised release under § 841(b)(1) is life).

**IT IS, THEREFORE, ORDERED** that the parties' motion is **GRANTED in part and DISMISSED in part**. The government's Information, (Doc. No. 2), is withdrawn and the Judgment, (Doc. No. 36), will not be altered.

The Clerk is directed to certify copies of this order to the defendant, counsel for the defendant, and to the United States Attorney.

Signed: March 30, 2022



Robert J. Conrad, Jr.  
United States District Judge

